

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No. 4193 of 1997

DATED: 06.03.2006

Between:

Pedda Appayamma and another.

... PETITIONERS

AND

The District Collector and another.

... RESPONDENTS

ORDER:

Petitioners 1 and 2 claim to be the owners of small extents of land in Survey Nos.31/3A and 76 of Buchirajupalem Village of Visakhapatnam Mandal and District, respectively. According to them, the bits of the said land abut National Highway No.5 and while widening the road, the same has been taken over by the respondents. In this writ petition, they seek direction to the respondents to initiate proceedings under the Land Acquisition Act, 1894 (for short 'the Act'), or the National Highways Act, 1956, and pay compensation according to law.

In the counter affidavit filed on behalf of the 1st respondent, it is stated that the land in Survey No.31/3A belongs to the Municipal Corporation of Visakhapatnam. The Counter affidavit is silent as to the claim of the 2nd petitioner, in respect of the land in Survey No.76. However, during the course of hearing, the learned Government Pleader obtained instructions from his clients and states that the land in Survey No.31/3A was not utilized for widening of the road. It was further contended that the total extent of land in Survey No.76 is Ac.5.83 cents and to the extent, the part of that land was acquired, awards have already been passed.

Heard the learned counsel for the petitioner, the learned Government Pleader for Land Acquisition and the learned Standing Counsel for National Highways Authority.

The widening of National Highway No.5 at Buchirajupalem is said to have taken place in the year 1993. Petitioners 1 and 2 state that they are the owners of small extents of land in Survey Nos.31/3A and 76 respectively. It is true that they have placed the relevant documents, in support of their claim, and also a decree passed in O.S.No.896 of 1992 filed by the husband of the 1st petitioner, for the relief of perpetual injunction. Even assuming that these documents evidence the title of the petitioners over the said land, in the teeth of the contentions advanced on behalf of the respondents that the land in Survey No.31/3A belongs to Municipal Corporation and for the portion of land in Survey No.76, which was utilized for widening the road, awards have already been passed, this Court finds it difficult to grant any relief to the petitioners.

A direction to the respondents to acquire any land, in accordance with the provisions of the Act, can be issued, if only it is clearly demonstrated that a piece of land of the petitioners was utilized for widening, but was not acquired, as provided for under law. The Municipal Corporation of Visakhapatnam, which is said to be the registered owner of the land in Survey No.31/3A, is not a party before this Court. Further, for various bits of land in Survey No.76, awards are

said to have already been passed. An exercise needs to be undertaken for identification of the land of the petitioners and verification needs to be made as to whether any compensation was claimed by third parties for such a land.

For the foregoing reasons, the Writ Petition is disposed of, leaving it open to the petitioners to work out their remedies, by filing a suit for declaration, duly impleading the concerned parties. There shall be no order as to costs.

06.03.2006

Jsu